

FILED THROUGH ECFS

December 19, 2012

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, D.C. 20554

Re: Notice of *Ex Parte* Communications, MB Docket No. 09-182

Dear Ms. Dortch:

On December 17 and 18, 2012, Todd Schurz,¹ Marci Burdick,² Joan Barrett – all representing Schurz Communications, Inc. (“Schurz”) and its subsidiaries – and the undersigned met with Commissioner Pai and Matthew Berry; Erin McGraw of Commissioner McDowell’s office; Elizabeth Andrion of the Chairman’s office; David Grimaldi of Commissioner Clyburn’s office; Alex Hoehn-Sauric of Commissioner Rosenworcel’s office; and William Lake, Brendan Holland and Benjamin Arden of the Media Bureau, concerning the Commission’s proposal to change the attribution status of television joint sales agreements.

We explained that Schurz is a small, diversified media company, operating newspapers, television and radio stations, and cable systems. Its experiences in three markets show the benefits to the public of joint sales agreements and shared services agreements (“JSA/SSA”).

- In Springfield, Missouri, KYTV, an NBC affiliate licensed to a Schurz subsidiary, entered into a JSA/SSA in 2007 with Perkin Media, owned by a local businessman with broadcast experience. The agreements enabled Perkin to obtain financing to acquire KSPR-TV, the ABC affiliate in the market. Prior to this transaction, KSPR-TV was a lagging fourth-place station with inadequate facilities, minimal digital facilities, only a few hours of poorly-rated news and no public service activities. The JSA/SSA has made possible the investment of over \$11 million in capital improvements, including an upgrade to maximize digital facilities, and the construction of a new, separate newsroom

¹ Mr. Schurz participated only in the meeting with the Media Bureau.

² Ms. Burdick did not participate in the meeting with Mr. Hoehn-Sauric.

for KSPR-TV with its own news director. The station has added local news programming and been able to acquire improved syndicated programming. In the latest Nielsen ratings period, KSPR-TV's news moved from a distant fourth in the market to second place.

- In Wichita, Kansas, the CBS affiliate is licensed to a Schurz subsidiary. In 2007, Schurz also acquired KSCW, a CW affiliate, from Lyle Banks, a minority broadcaster who had operated the station for eight years, all but one at a substantial loss. In 2009, Entravision, which held a construction permit for a new station in Wichita, entered into a JSA/SSA with Schurz under which Entravision obtained access to an existing digital transmitter and antenna and was able to assume a tower lease, and obtained sales and other assistance to go on the air as a Univision affiliate. We described the public benefits from these arrangements:
 - The Univision affiliate was able to go on the air months earlier than it would have without the JSA/SSA, and its startup costs were reduced by roughly half.
 - It was able to air Univision programming in HD much earlier than would otherwise have been possible.
 - In 2010, it added a daily, *Spanish-language* local news program, using the Schurz news-gathering structure and adding Hispanic reporters and anchors. It is the only local newscast in Spanish in the State of Kansas. Because of the resources available from Schurz, the Entravision station is also able to broadcast timely emergency information in Spanish, an important public service in Wichita which is located in "tornado alley."
 - The CW station prior to its acquisition by Schurz had problems maintaining a full-power digital signal. It now operates on a new full-power digital transmitter and recently constructed a digital replacement translator to ensure service to viewers in downtown and southeastern Wichita. Both network and local programming is now provided in HD, which was not possible before.
 - Prior to its acquisition, the station broadcast only one half-hour local program each week, produced by a third party. It now airs 23 hours of local news, sports and public affairs programming every week, 20 of which are produced by Schurz. Its local news broadcasts are transmitted in HD.
- In Augusta, Georgia, the NBC affiliate is licensed to another Schurz subsidiary. After Schurz acquired the station, it began offering local news, but ran at a significant loss every year. In 2009, due to the recession in the advertising market, the losses became unsustainable and Schurz was faced with the choice of eliminating local news or sharing costs with another station in the market. It entered into a JSA/SSA with Media General, the licensee of another Augusta station, under which both stations have moved into a new, state-of-the-art HD studio facility and the amount of news programming on both

stations has increased. As in Springfield, there are separate newsrooms and news directors for both stations.

We provided handouts detailing the effects of these transactions in both markets, copies of which are attached.

We argued that the Commission should not make changes to its attribution rules without, at the same time, changing to its local television ownership rules which, in small and medium television markets, have not effectively changed since they were first adopted in 1974. Further, we pointed out that television stations face competition in advertising sales from cable and satellite systems that are free to sell together, and reported that, in most markets, advertising on all multi-channel video programming distribution systems is sold together. That is certainly true in markets where Schurz operates cable systems. Barring only television joint sales agreements while permitting other video providers to combine sales operations would disadvantage only one part of a competitive market.

Further, we pointed out that the Media Bureau had routinely approved these agreements for almost a decade, and millions of dollars of investment in new and improved facilities had been undertaken in reliance on those approvals. The Commission, we argued, should hesitate before taking action that would discourage future investment in broadcasting. In fact, as we pointed out, almost every time the Commission had changed its attribution standards since it adopted local ownership limits, it had either changed those rules at the same time or grandfathered existing combinations. The one exception was its 2003 decision to make radio JSAs attributable, but that occurred after the local radio limits had been significantly relaxed, in contrast to the television rules which remain unchanged despite enormous changes in the local television marketplace. The Commission, we argued, should not change its established way of changing ownership standards.

We were asked whether the benefits from shared services agreements could be provided to the public without joint sales agreements. Although Schurz could not respond for every situation, we indicated that it would be difficult, if not impossible, to restructure these agreements in many instances to separate sales operations. In some cases, we pointed out, the additional costs that would be incurred would make the entire agreement uneconomic, and in any case, those costs would reduce the amount of funds available for increased news and public service. Second, if the service provider station were able to sell advertising in the programming it provided, the other station might not be able to sustain the costs of a separate sales force for its remaining programming, and certainly those costs would affect the level of public service. Finally, we pointed out that, in many cases where one station was acquired as part of the transaction, the new licensee's bank loan was guaranteed by its JSA/SSA partner. Without a JSA, it is unlikely that such guarantees would be approved, reducing access to capital for new entrants into broadcasting ownership.

We were also asked about joint negotiation of retransmission consent agreements. Schurz has acted as an agent for its partners in negotiating retransmission in some markets, and not in others. In only one instance has a cable system requested the agreements be negotiated separately and in

that case, the licensee dealt with that cable system on its own. When that agreement had to be negotiated, the same offer was extended and the cable system – notably a cable operator which has complained about joint negotiation – declined the offer and asked that Schurz negotiate for both stations. Schurz' experience suggests that there is no basis for the Commission to consider retransmission consent negotiations in this proceeding.

We were asked whether Schurz would favor an alternative under which local ownership combinations could obtain a waiver. We responded that the delays typically associated with waiver requests would make that an unattractive option since stations could be tied up for an indefinite period while the waiver was under consideration. To the extent that the Commission would consider waivers, we did argue that the failing station waiver standard be modified to eliminate the audience share component that effectively excluded small and medium market station transactions.

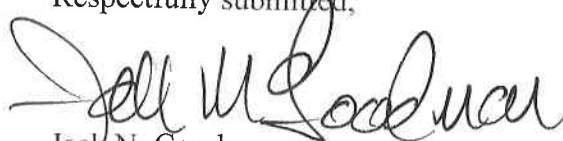
Finally, we were asked whether restricting joint operations or common ownership would be an effective way to help increase diversity in broadcast ownership. We responded that operating a stand-alone station in medium and small markets was difficult today, and would become more so as networks seek higher reverse compensation. Indeed, we pointed out that the CW affiliate Schurz acquired in Wichita had been licensed to a minority broadcaster which had been unable to operate successfully, even with the help of a large broadcasting company that supplied it with technical and other services. Thus, restricting the ability of small and medium market television stations to compete would not likely be effective in providing opportunities for minority and female new. We also suggested that ownership should not be the Commission's only focus in assessing diversity. We noted that in Schurz' case, its electronic media division and several of its station groups are run by female executives, who would have far more influence on the way it stations operate than someone who merely had an ownership interest. Additionally, Schurz has been able to increase service to Spanish-speaking audiences and increase employment for Hispanic broadcasters through these agreements.

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Therefore, the Commission should not change the attribution rules with respect to joint sales agreements or should only do so if it also changes its outdated local television ownership rules.

Should there be any questions about this matter, please direct them to the undersigned.

Respectfully submitted,



Jack N. Goodman

Counsel for Schurz Communications, Inc.

Attachments

cc (by e-mail): Commissioner Pai
 William Lake
 Matthew Berry
 Erin McGraw
 Elizabeth Andrion
 David Grimaldi
 Alex Hoehn-Sauric
 Brendan Holland
 Benjamin Arden



2006-2012

**Six years of
Significant growth**



Significant Physical Station Upgrades

- First station in Springfield to launch HD news and commercial play out.
- New studio, set and equipment.
- New newsroom, cameras and edit systems.
- New HD weather system.
- New transmitter and antenna system.
- New studio to transmitter link.
- New live capabilities via 3G.
- New HD SNG capabilities



News Commitment and Success

- Added Hour long M-F 4PM Newscast
- Added Saturday 6PM News
- Added Sunday 5:30PM News
- Added 6 positions to KSPR News
- Launched News app
- Launched Weather app
- 2 Emmy Awards
- 10+ NPPA Awards for Photography
- 20+ Missouri Broadcast Awards
- 30+ KC Press Club Awards



Enhanced Community Involvement

- St. Jude Telethon – over \$600,000 raised yearly.
- Oscar Night America – a benefit for Isabel's House – over \$100,000 raised yearly.
- MDA Telethon- new in 2012
- Join in for Joplin – over \$380,000 raised.
- Ozark Fireworks and Kinetic Kontraption Race.
- Special Olympics.
- Walk for Autism.
- Making a Difference in the Community - PSA campaign.

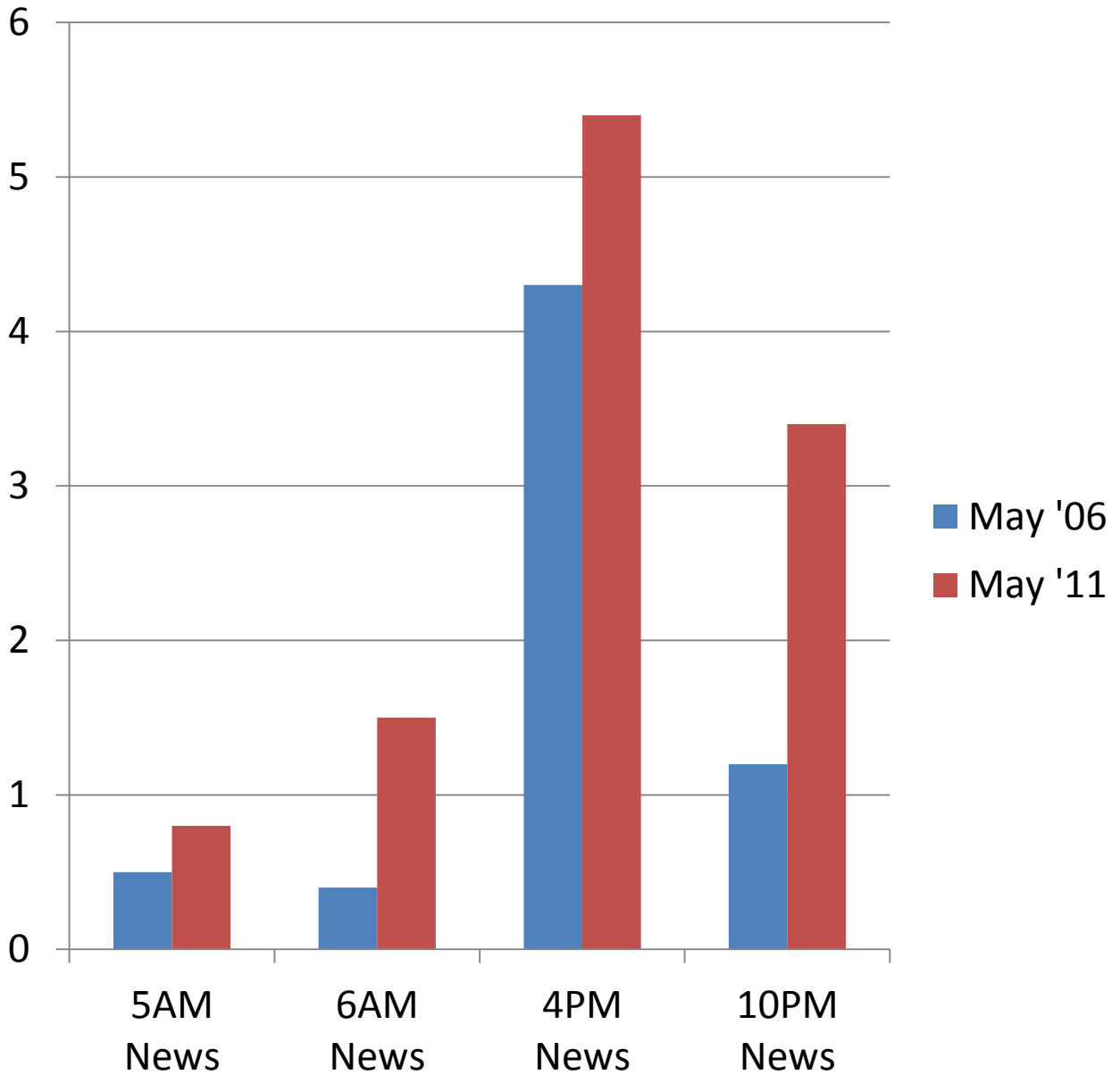


Significant Programming Upgrades

- Pre-2007 - heavy doses of paid programs.
- Live with Regis and Kelly - 2007
- Jeopardy - 2007
- Dr. Oz - Fall of 2009
- 4PM News – 2009
- Big Bang Theory – 2011
- Early Weekend Newscasts – 2011
- Katie Couric - 2012



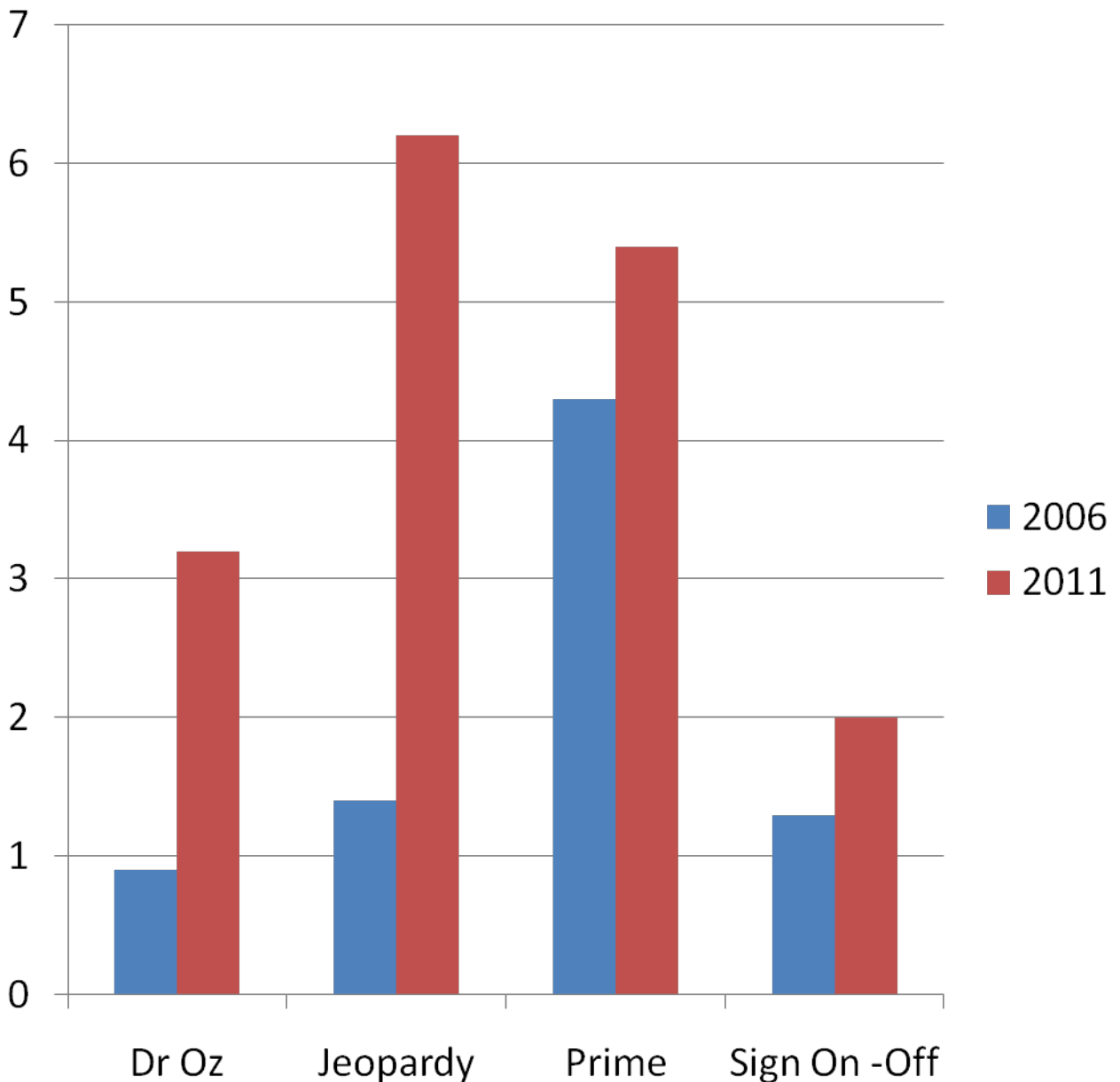
News Ratings Success



Source: Nielsen May 2006 and 2011 HH Ratings



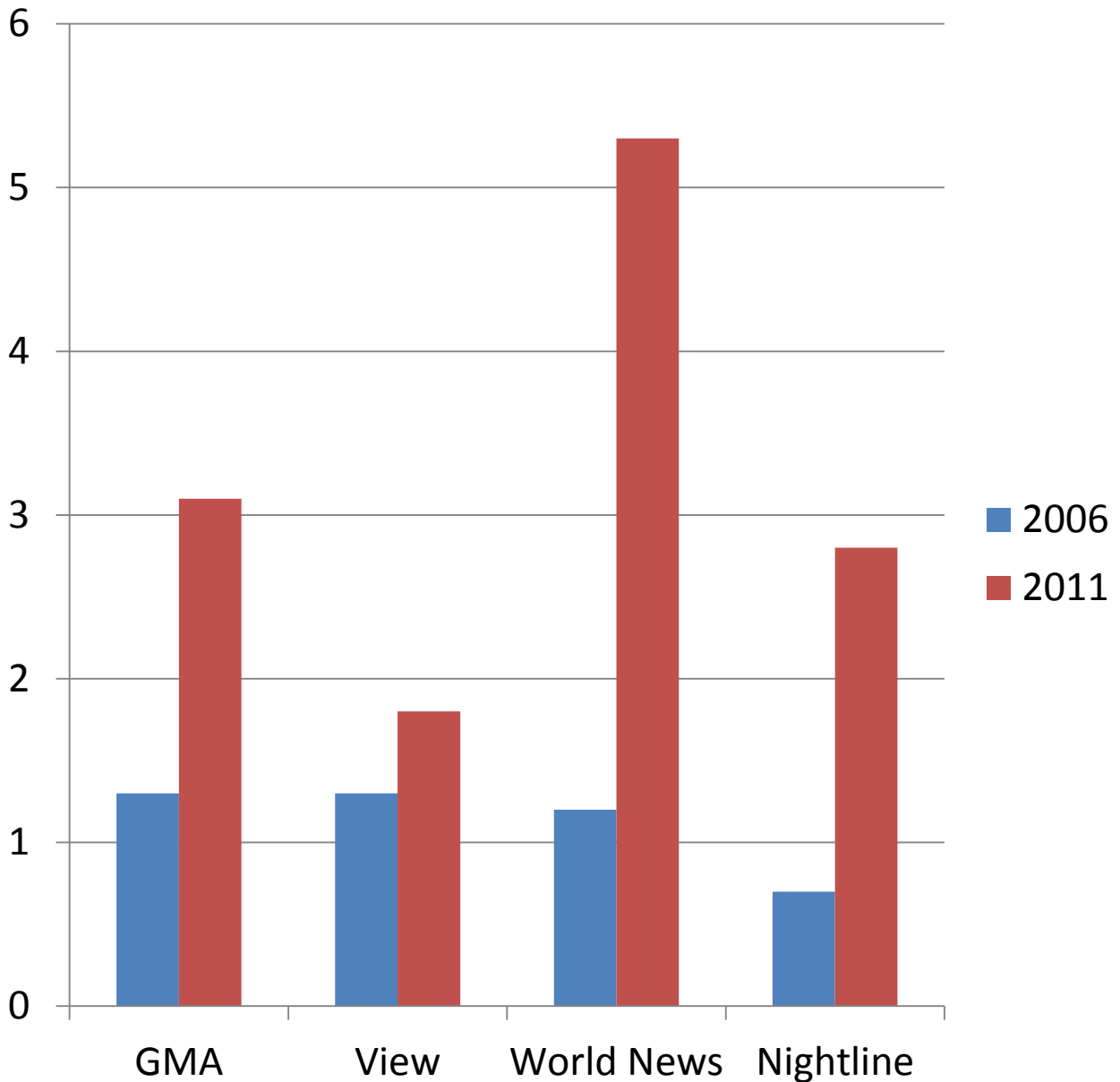
Other Programming Growth



Source: Nielsen May 2006 and 2011 HH Ratings



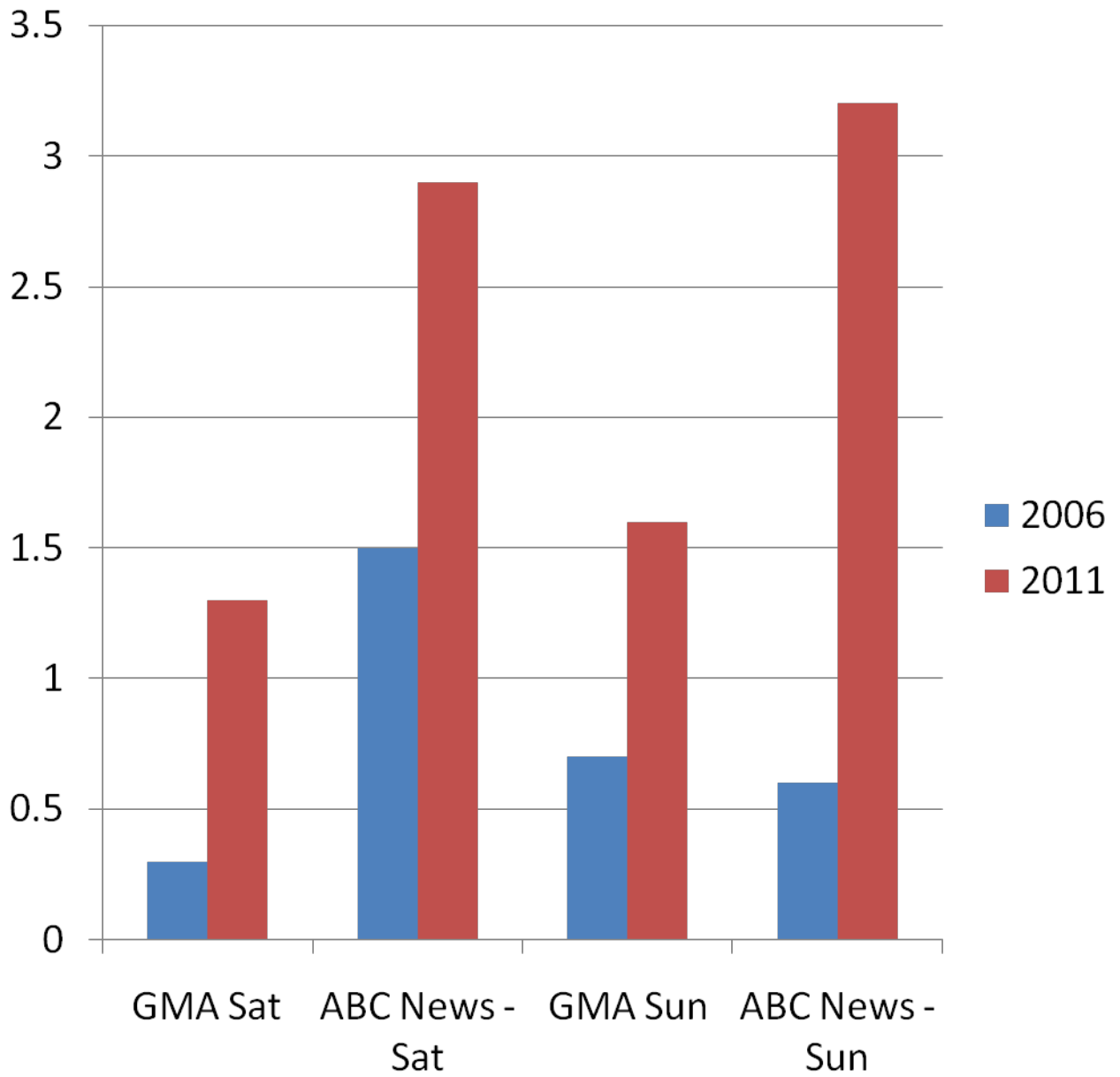
ABC Program Growth



Source: Nielsen May 2006 and 2011 HH Ratings



Other ABC Growth



Source: Nielsen May 2006 and 2011 HH Ratings



Bottom Line

- Perkin Media and Schurz Communications have committed to the growth of KSPR News and the ABC network in Springfield.
- We are long-term operators who have never sold a station.



Sunflower (SBI) entered into a SSA/JSA with Entravision to operate KDCU in August, 2009.

- KDCU went on the air four months early due to the support from SBI in August of 2009.
- KDCU was able to transition to HD with support from SBI in May of 2010.
- The joint venture cut the initial startup costs for the first year of operation by about 50%.
- The SBI news support enabled the launch of local news years ahead of plan, saving about 50% in startup costs.
- The Monday-Friday late local news is the only Spanish newscast in the state of Kansas, launched April of 2011.
- The SBI management and staff support has enabled more participation and representation in the community both on boards, community events, and sponsorships.
 - Participation in the Hispanic Chamber of Commerce
 - Participation in the Ks Hispanic Education and Development Foundation Training
 - Board Member of the Ks Hispanic Education and Development Foundation
 - Board Member in the Education and Development foundation Training
 - The KDCU Crew staff member represented KDCU at many local events
 - Involved in the formation of the Kansas Hispanic Leadership Network
 - Working to help initiate a Hispanic journalism organization in the area



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Sunflower (SBI) purchased KSCW from Banks Broadcasting in July of 2007 under a failing station waiver.

- Banks operated the station from 1999 to July of 2007, only one year showed a profit of \$184,000. One year, losses exceed \$1m.
- SBI has operated the station profitably since assuming ownership.
- In February, May and November sweeps periods in 2006 the highest rated regularly scheduled programs on KSCW had a 1 rating/3 share.
- In November 2012, KSCW had nine regularly scheduled programs with at least a 2 rating and a 3.5 share or higher. Of those nine programs, three were locally produced newscasts.
- At the time of purchase, Banks had 21 FTE, 2 PTE; currently SBI has 6FTE, 1 PTE and 6 news staff allocated to KSCW.
- SBI hired 1 full-time and 2 part-time employees to represent the station at many community events, they are known as the "KSCW Crew."
- Prior to SBI ownership, there was one locally produced show on KSCW that ran in late night weekly called "Heavy Pork." (It was not produced by the station.)
- Currently, KSCW airs 23 hours of local programming each week, with 20 hours produced by SBI:
 - 7-9 AM news, Monday through Friday
 - 4-4:30 PM news, Monday through Friday
 - 9-9:30 PM news, Monday through Friday
 - 7-9 AM news, Sunday
 - High School sports show, 11 PM on Friday
 - 30-minute locally produced show, "It's all good with Sierra Scott", 7:30 PM Sunday
 - Locally produced "Weekend Crew" show with the KSCW Crew, airs weekly
 - Plans for locally produced show at 4 PM, Monday-Friday, tentative launch 7/1/2012
 - Regionally produced M-F morning show, "Ag AM in Kansas"
 - Produced and aired multiple high school sport championships
- The management and staff support has enabled the station to have representation at more community events and on local boards.
- KSCW has a full-power transmitter and is fully HD. We also installed a LPTV in 2012 to enhance the coverage area in the Wichita metro.



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